

REMARKS

In the Restriction Requirement mailed December 21, 2005, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. §121:

- I. Claims 1-17, drawn to compositions comprising distinct peptides within formulae I-IV, classified in class 514, subclass 2.
- II. Claims 18-33, drawn to methods for decreasing growth of chondrosarcoma cells comprising compositions of distinct peptides within formulae I-IV, classified in class 424, subclass 1.69.

Applicant provisionally elects, with traverse, Group II (claims 18-33). The Restriction Requirement is traversed on the basis that Restriction Requirements are optional in all cases (M.P.E.P. § 803). If the search and examination of an entire application can be made without serious burden, the Examiner must examine the application on the merits, even though it includes claims to distinct or independent inventions. M.P.E.P. § 803. Applicant submits that a search of both groups would not be so burdensome as the Examiner alleges.

Applicant further traverses the need for a species election and requests reconsideration thereof. As provided by the MPEP, species may be related inventions and need not be subject to restriction. *See* MPEP § 806.04(b). In particular, where species are claimed under a common genus and are related, the question of restriction is determined by the practice applicable to election of species and the practice applicable to other types of restrictions. *See id.* Applicants also respectfully remind the Examiner that they are entitled to examination of a reasonable number of species, and that election of species is for the convenience of the Examiner in initiating the search.

Here, peptide SEQ ID NO:11 could be divided into peptides with SEQ ID NOs:12 and 13. Therefore the sequence of elected peptide SEQ ID NO:1 is identical to the sum of the sequences of peptide SEQ ID NO:12 and 13. Applicants therefore request that the Examiner reconsider the species election and search all three peptides together because

these three peptides are so closely related.

If the Examiner does not withdraw or modify the Requirement for Restriction, Applicant respectfully requests that the Examiner consider the unelected claims and species after allowance of a generic claim relating to the elected claims. Applicant further reserves the right to reintroduce the unelected claims (and/or species) in one or more divisional applications at a later date.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (516) 795-6820 to facilitate prosecution of this application.


If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date January 23, 2006 By _____

Robin A Chadwick
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 23 day of January, 2006.

CANDIS BUENDING

Name



Signature